

	<b>DEPARTMENT OF PUBLIC SAFETY</b>  <b>CORRECTIONS ADMINISTRATION</b> <b>POLICY AND PROCEDURES</b>		<b>EFFECTIVE DATE:</b> <b>MAR 10 2010</b>	<b>POLICY NO.:</b> <b>COR.10.1H.08</b>
			<b>SUPERSEDES (Policy No. &amp; Date):</b> <b>COR.10E.06 (07/28/09)</b>	
	<b>SUBJECT:</b> <b>RELEASE OF PROTECTED HEALTH INFORMATION</b>			<b>Page 1 of 6</b>

## 1.0 PURPOSE

To establish procedures that restrict access to the privileged information contained in medical records and defines the parameters under which this information may be released.

## 2.0 REFERENCES AND DEFINITIONS

### .1 References

- a. Hawaii Revised Statutes: Section 26-14.6, Department of Public Safety; and Section 353C-2, Director of Public Safety, Powers and Duties and Section 92F, Public Access to Government Records: Exempt: Medical Records/Protected Health Information; and 92F-13(4), Withholding protected health information for living or deceased individuals.
- b. Hawaii Revised Statutes: Section 325-101, HIV; ARC; & AIDS; Section 334-5, Mental Health, Drug Addition and Alcoholism; 841-17 & 18, Inquests: Medical Records.
- c. Health Insurance Portability and Accountability Act, 45 C.F.R., 160-164, (1996); Published in Federal Register 67, No. 157, August 14, 2002.
- d. National Commission on Correctional Health Care, Standards for Health Services in Prisons and Jails, (2008).
- e. Department of Public Safety, Policy ADM.O5.02, Public Access to Department Information.

### .2 Definitions

- a. Patient: An individual who has received or is receiving health care.
- b. Medical Record: A record that represents a patient's medical history and clinical care from the moment of birth until death.
- c. Protected Health Information (PHI): Personal medical information on an individual that is kept in a medical record/chart or in other documents.
- d. Custodian of Medical Records: The person at each correctional facility who is designated by the Health Care Division Administrator or designee to be responsible for, and in physical possession of, patients' medical records.

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- e. Restricted Information: Medical information requiring additional specific patient consent to release relating to mental health treatment, drug or alcohol treatment and all HIV, AIDS, or related conditions (ARC).

### 3.0 **POLICY**

- .1 Inmate medical records are the property of the State of Hawaii, Department of Public Safety. Unless otherwise restricted by law, patients have a right to review or copy medical information pertaining to them.
- .2 Except for inter-facility transfers and investigations on health care staff misconduct to inmates, original medical records shall not be removed from the Health Care Section.
- .3 A health care provider, agent or any PSD employee shall not disclose protected health information about a patient except as allowed by State law, Federal rules and Department policy.
- .4 The Custodian of Medical Records (CMR) shall respond to subpoenas in personal injury cases, medical tort claims or in medical malpractice suits filed by the patient or the patient's agent. All other requests in criminal, civil suits by the prosecutor or a third party require a signed release of information from the person the medical information pertains to except under a court order.

### 4.0 **PROCEDURES**

- .1 Upon receipt of a valid request for medical information in a personal injury case, medical tort claim or malpractice suit the CMR shall ensure that the requesting party secured the patient's consent except under the following circumstances:
  - a. A State of Hawaii court order requiring disclosure. Proof of the court order is required and the court order must specifically mention medical records. Medical records do not contain court ordered collection of body fluids or test results for forensic purposes,
  - b. By Subpoena provided the attorney of record **represents the patient's interest** in a personal injury claim, medical tort or malpractice suit and the information requested belongs to that patient. The CMR shall seek guidance from the Office of the Attorney General before responding to a Subpoena to determine how the records shall be forwarded to the requesting attorney,

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The CMR shall seek guidance from the Office of the Attorney General before responding to a Subpoena **should the attorney or agent represent a third party who is not the Department of Public Safety, its employee or agent, or the person to whom the information pertains,**

- c. The Ombudsman's Office when representing a patient's complaint provided the Custodian of Records can identify the requesting party by voice or by call back to the Ombudsman Office,
- d. An interpreter for the purpose of providing health care and medical information to a patient,
- e. To the patient's private health care insurance carrier for reimbursement for services rendered provided the patient has been informed of said release and is afforded the opportunity to make alternate reimbursement arrangements,
- f. The medical examiner or anyone designated Coroner by the State of Hawaii may examine the medical record or request copies of the medical record in connection with an autopsy, investigation or inquest in the death of an inmate,
- g. The Office of the Attorney General or its contractors in its defense of the State, the facility or its employees in any personal injury claim, medical tort or malpractice suit brought by a patient,
- h. Consistent with state statute, Internal Affairs, facility investigators, the Sheriffs, the Honolulu Police Department or any bonified law enforcement agency of the United States of America may examine the medical information of the subject of the personal injury case, the medical tort claim, or the malpractice suit, but such examination is limited to only those progress note entries and related reports such as emergency room, diagnostic, or injury reports that specifically pertain to the underlying incident of the personal injury case, medical tort claim or malpractice suit. Requests for information not pertaining to either the subject or underlying incident of the personal injury case, medical tort claim, or malpractice suit, requires consent for the person to whom the information pertains.
- i. To corrections program staff and facility social workers only that information necessary and appropriate for the purpose of job or program placement and transfers and to transport correctional officers only that information necessary for the safe transport of the patient. This includes correctional officers and other staff who function as part of the mental health treatment team, who are in turn responsible for knowing and adhering to these rules regarding patient confidentiality.

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- j. If a patient is unable to give consent due to a mental health or medical condition or emergency,
  - k. To continue medical care or for extended care outside of the Department. The CMR shall forward copies of the last six months of care and treatment including histories and physicals, diagnostics and consultations. Form DOC 0401, Interfacility Discharge Summary shall be completed by a nurse and attached to the medical record copies,
  - l. To the power-of-attorney or the legally appointed guardian of an inmate, who has been adjudicated by a court as being incompetent,
  - m. To the executor/executrix or next-of-kin of a deceased inmate unless otherwise indicated by the inmate prior to death. Any probated document that indicates executorship or any vital statistic document that proves kinship shall suffice as proof. In the absence of the above DOC 0404, Request for Medical Records of Decedent Non-Probate may be sent to next of kin to facilitate a record release. Priority kinship in the case of multiple requests from relatives shall be established in the following fashion: The spouse, if the decedent was married. If not married, the oldest adult child. If there are no children or if the children are minors, the father or mother (whomever makes the request first) or both parents in the case of divorce. If there is no living parents, no spouse and no adult children, then the eldest sibling is the next of kin. One copy shall be issued to the identified next of kin,
  - n. To the State of Hawaii Department(s) that is tasked with the investigation of inmate tort claims for the purpose of replacing property. Only the PHI directly related to the claim shall be released,
  - o. The sharing of information with the Department of Health as required by law,
  - p. Statistical or research projects, audits or evaluations, or quality improvement activities that protect against the release of patient identifying data,
- .2 The CMR shall screen requests for information from medical records as to content and validity.
- .3 Except for a court order specifically stating a request for HIV/AIDS or related diseases, drug/alcohol treatment, or mental health treatment records. Medical records containing HIV/AIDS or related diseases, drug/alcohol treatment, or mental health treatment documents **require specific consent for release of information pertaining to those conditions from the person to whom the information pertains** before the information can be released.

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- .4 Requests for medical information shall be processed to provide true and exact copies.
- .5 A summary of the released information shall be recorded on form DOC 0490, Information Reviewed or Released From This Medical Record and Form PSD 1017, Request for Disclosure/Access of Department Information/Records.
- .6 The CMR is prohibited from further releasing information in the medical record from other hospitals or agencies, except when the request is from the individual to whom the information pertains or for continuity of care as authorized by state statute. In the case of personal injury lawsuits, the CMR shall reference the information to the requesting party.
- .7 A consent is valid for one (1) year. The inmate may void or revoke all or part of consent upon demand and at any time prior to the release of the information. Once information has been released, the Department shall not be responsible for the further disclosure or distribution of the released information.
- .8 Copies of the released medical record information shall be accompanied by DOC Form 0488, Requested Copies of Medical Records. The records shall be sealed in an envelope or box, marked confidential and date stamped.
- .9 The copying cost is up to 50¢ per page, which may be waived for indigent inmates. Copy cost shall be billed using the State Accounting Form B-10, Bill for Collection. The check or money order shall be made out to the Director of Finance in care of the Health Care Section.

## 5.0 **SCOPE**

This policy and procedure applies to all correctional facilities and their assigned personnel.

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APPROVAL RECOMMENDED:

Willard 3/8/10

Medical Director Date

W. J. 3/9/10

Corrections Health Care Administrator Date

L. P. 3/9/10

Deputy Director for Corrections Date

APPROVED:

Clayton D. France

Director

3/10/10

Date

**INTERFACILITY TRANSFER / DISCHARGE SUMMARY**

NAME \_\_\_\_\_

DISCHARGED TO \_\_\_\_\_

SID \_\_\_\_\_ DOB \_\_\_\_\_

DISCHARGED FROM \_\_\_\_\_

ALLERGIES/PRECAUTIONS/ALERTS

TRANSFER DATE \_\_\_\_\_

ACUTE ILLNESS

PPD Planted \_\_\_\_\_ READ ON \_\_\_\_\_ MM Results \_\_\_\_\_

CXR DATE \_\_\_\_\_ RESULTS \_\_\_\_\_

IMMUNIZATIONS      Received      Pending

Hepatitis 1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

CHRONIC CARE

(Including date of last visit(s) and mental health dx) Influenza \_\_\_\_\_

Pneumovax \_\_\_\_\_

Other \_\_\_\_\_

CURRENT MEDICATIONS

(Include date/time of last dose if pertinent)

DATE LAST PAP, CHLAMYDIA / GC \_\_\_\_\_

DATE LAST MAMMOGRAM \_\_\_\_\_

DATE OF LAST PE \_\_\_\_\_ DUE ON \_\_\_\_\_

SPECIAL DIET

CURRENT TREATMENTS

SPECIAL NEEDS: Diabetes, Current Hep. C or TB treatment, mental health concerns, Labs, requirements during transportation, needs required after release, etc:

SIGNATURE AND TITLE OF PERSON PREPARING THIS FORM \_\_\_\_\_

DATE \_\_\_\_\_

I ACKNOWLEDGE RECEIPT OF THIS DISCHARGE SUMMARY \_\_\_\_\_

DATE \_\_\_\_\_

Original: Medical record or with inmate upon release

Canary: Returned to sending facility by receiving facility as proof of receipt

Pink: Retained by sending facility

**AUTHORIZATION TO RELEASE MEDICAL INFORMATION**

TO: \_\_\_\_\_ FROM: \_\_\_\_\_

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip Code)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip Code)

PATIENT'S NAME: \_\_\_\_\_  
(Print Patient's Name) (DOB)

HEALTH INFORMATION REQUESTED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For the Purpose of Assessment, Follow Up Care and/or Continued Health Care Service to the Patient.

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**AUTHORITY**

**HIPAA: 45 CFR 164.512(k)(5). Protected Health Information may be disclosed to Correctional Institutions with custodial responsibility described by State law and Federal rule for the provision of health care to incarcerated individuals.**

**Hawaii Revised Statutes: Chapter 26-14.6, Department of Public Safety**

**Hawaii Revised Statutes: Chapter 353C-2, Director of Public Safety, Powers and Duties.**

**Hawaii Revised Statutes: Chapter 353-1 to 50, Prisons and Prisoners Generally**

Original: Provider/Agency in possession of the PHI.

Copy: Medical Record



## AUTHORIZATION TO RELEASE MEDICAL INFORMATION

### CONDITIONS OF AUTHORIZATION

1. This authorization to request the protected health information is valid for one year from the date of the authorized signature.
2. The Authority has the right to revoke the authorization by submitting a revocation in writing to the person, or class of persons, authorized to release the information. The right to revoke the authorization to release the information is valid at anytime prior to the actual release of information.
3. Treatment, payment, continued enrollment in a health plan or eligibility benefits is not a condition of this authorization except as allowed by federal and state law.
4. The release of protected health information under this provision is no longer applicable once the individual has been released from the lawful custody of the Department of Public Safety, Office of Corrections.
5. The information released to the Authority may be subject to re-disclosure for:
  - A. The provisions of health care or continued health services to the patient.
  - B. The health and safety of such individuals and other inmates.
  - C. The health and safety of correctional officers and employees and others at the correctional institution.
  - D. The health and safety of the individual and correctional officers or other persons responsible for the transporting or transferring of the individual.
  - E. The administration and maintenance of the safety, security, and good order of the correctional institution.
  - F. To law enforcement on the premises of a correctional institution.
  - G. To the individual identified in the protected health information or to his or her personal representative.
  - H. To public health authorities and other agencies as required by the Health Information Accountability and Portability Act and Hawaii Revised Statutes.

The information released under this authorization may no longer be protected by the health information privacy act.

**HEALTH CARE DIVISION**

NAME:	SID:	DOB
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**SIGNATURE/TITLE**  
**INMATE SIGNATURE**

STATE OF HAWAII

ATTACHMENT B  
DEPARTMENT OF PUBLIC SAFETY

REQUEST FOR DISCLOSURE/ACCESS OF  
DEPARTMENT INFORMATION/RECORDS

Request No.: \_\_\_\_\_

Requestor's Name: \_\_\_\_\_ (PRINT)

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Record/Information Requested: \_\_\_\_\_

Reason for Request: \_\_\_\_\_

Requestor's Signature \_\_\_\_\_ (Date) \_\_\_\_\_

ACCESS	<input type="checkbox"/> Copy(ies) Requested	<input type="checkbox"/> Inspected
<b>No. Pages/Sheets Reproduced:</b>		
One-sided _____	<b>Paper Size:</b> _____	@ \$ _____ = \$ _____
Two-Sided _____	_____	_____
_____	_____	_____
_____	_____	_____
Total Time to Retrieve _____		Total .... \$ _____
Amount Collected: \$ _____ Check No. _____		

DENIAL
If Local Access denied, give reason: _____
_____
_____
Requester informed of Appeal Rights and process? Yes _____ No _____
Date Appeal referred to Director: _____

Signature of Records Clerk \_\_\_\_\_ / \_\_\_\_\_ Date

PSD 1017 (8/92)

Signature of Authorized Administrator \_\_\_\_\_ / \_\_\_\_\_ Date

OTHER PARTY REQUEST FOR COPIES OF MEDICAL RECORDS

Facility: \_\_\_\_\_

Date: \_\_\_\_\_

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Zip Code: \_\_\_\_\_

ATTACHED ARE THE MEDICAL RECORDS REQUESTED ON:

Patient Name: \_\_\_\_\_ SID: \_\_\_\_\_ DOB: \_\_\_\_\_

☐ Entire record \_\_\_\_\_ to \_\_\_\_\_

☐ Progress/Infirmity Notes \_\_\_\_\_ to \_\_\_\_\_

☐ Mental Health Notes \_\_\_\_\_ to \_\_\_\_\_

☐ Physical/History Form(s) \_\_\_\_\_ to \_\_\_\_\_

☐ Consultation Report(s) \_\_\_\_\_ to \_\_\_\_\_

☐ Diagnostic Report(s) \_\_\_\_\_ to \_\_\_\_\_

☐ Other \_\_\_\_\_

☐ Other \_\_\_\_\_

☐ We are unable to process your request for information because: \_\_\_\_\_

THE ATTACHED INFORMATION IS DISCLOSED TO YOU FROM RECORDS WHOSE CONFIDENTIALITY IS PROTECTED BY FEDERAL RULES. FEDERAL REGULATIONS PROHIBIT YOU FROM FURTHER DISCLOSURE OF THE INFORMATION WITHOUT SPECIFIC WRITTEN CONSENT FROM THE PERSON TO WHOM THE INFORMATION PERTAINS OR AS OTHERWISE PERMITTED BY SUCH REGULATIONS. THE DEPARTMENT OF PUBLIC SAFETY DOES NOT ASSUME ANY RESPONSIBILITY FOR THE FURTHER DISCLOSURE OR DISTRIBUTION OF THE ATTACHED RECORDS ONCE IT IS RELEASED. ACCORDING TO FEDERAL GUIDELINES, IT IS YOUR RESPONSIBILITY TO RETURN THE COPIES, OR PROOF OF DESTRUCTION, TO THE ADDRESS LISTED ABOVE UPON COMPLETION OF THE REVIEW OR TRIAL.

Original: To Requester  
Canary: Medical Record  
Pink: Proof of Compliance